

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TRUSTEES OF THE PLUMBERS AND  
STEAMFITTERS LOCAL 21 ZONE 1 PENSION  
FUND,

Plaintiffs,

Civil Action No.:

v.

**COMPLAINT**

P E CONTROL SERVICES, LTD,

Defendant.  
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**Preliminary Statement**

1. This is an action by a multiemployer Pension Plan to collect withdrawal liability under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1001-1461, as amended by the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. No. 96-364, 94 Stat. 1208, 29 U.S.C. Section 1381 et. seq.

**Jurisdiction and Venue**

2. This Court has jurisdiction over this action pursuant to Section 4301 (c) of MPPAA, 29 U.S.C. Section 1132 (e)(1) and (f) and 1451(c).

3. Venue is proper in this judicial district pursuant to 4301 (d) of MPPAA, 29 U.S.C. Section 1132 (e)(2) and 1451 (d).

**Parties**

4. Plaintiff Trustees of the Plumbers and Steamfitters Local 21 Zone 1 Pension Fund (the "Fund") is a multiemployer pension plan within the meaning of the 29 U.S.C. Section 1002(37) and 1301 (a)(3). The Fund is administered from its headquarters in Peekskill, New York.

5. Trustees of the Fund are fiduciaries of the Fund within the meaning of 29 U.S.C. Section 1002 (21)(A). The Fund's Trustees are collectively the administrator of the Fund, within the meaning of 29 U.S.C. Section 1002 (16)(A) and 1301 (a)(1), and the plan sponsor of the Fund, within the meaning of 29 U.S.C. Section 1002 (16)(B) and 1301 (a)(10).

6. Defendant, P E Control Services, LTD (hereinafter "PE Control" or "Defendant") is a corporation organized under the laws of the State of New York with its principal place of business in Tuckahoe, New York.

### **Claim for Relief**

7. Plaintiffs repeat and reallege paragraphs "1" through "6" above and incorporate them herein by reference.

8. On or about August 4, 2015, the Defendant became obligated to contribute to the Fund pursuant to a collective bargaining agreement with Trustees of the Plumbers and Steamfitters Local No. 21.

9. Effective on or about June 30, 2019, Defendant completely withdrew from the Fund, within the meaning of 29 U.S.C. Section 1383.

10. By letter dated September 24, 2019 (the "Assessment"), pursuant to 29 U.S.C. Section 1382 and 1399 (b)(1), the Fund assessed withdrawal liability against Defendant.

11. Under the Assessment, the Defendant was required to make eighty (80) quarterly payments of \$9,404.00 beginning November 24, 2019, for a total of \$427,572.00.

12. By letter dated December 11, 2019, (the "Default letter"), pursuant to 29 U.S.C. Section 1399 (C)(5)(A), the Defendant was advised that its withdrawal liability payment was past due and failure to cure the deficiency within sixty (60) days would be considered a default within the

meaning of ERISA and that the total withdrawal liability to the Pension Fund in the amount of \$427,572.00 would be due and owing.

13. The Defendant, failed to cure the default within sixty (60) days after the Notice of Default.

14. Accordingly, under 29 U.S.C. Section 1399 (c)(5), all payments required by the Assessment, in the total amount of \$427,572.00, became due immediately plus accrued interest, liquidated damages, attorneys fees and court costs.

**WHEREFORE**, Plaintiffs respectfully request that this Court:

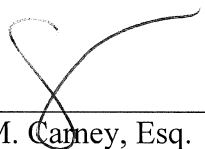
1. Award Plaintiffs judgment against the Defendant, for \$427,572.00
2. Award interest thereon in accordance with Sections 4219 (c)(3) and 4301 (b) of MPAA, 29 U.S.C. Section 1399 (c)(3) and 1451 (b).
3. Award an amount equal to the greater of interest on the overdue interim withdrawal liability payments or liquidated damages in the amount of 20% of the overdue interim withdrawal liability payments in accordance with Sections 4301 (b) of MPPAA, 29 U.S.C. Section 1451 (b).
4. Award Plaintiffs the reasonable attorneys' fees and costs incurred by them in prosecuting this action, as required by Section 4301 (b) of MPPAA, 29 U.S.C. Section 1451 (b).

5. Award Plaintiffs such further relief as is just and proper.

Dated: March 9, 2020  
Hempstead, New York

Respectfully submitted,

BARNES, IACCARINO, & SHEPHERD, LLP  
Attorneys for Plaintiffs



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